

Procedures to Account for Checks Returned Due to Insufficient Funds (NSF)¹

Criteria

UCA § 7-15-1. Dishonored Instruments - Collection Costs.

Suggested Accounting Procedures for Justice Courts, General Policies and Procedures, Section 3.01; Cash Receipts, Sections 5.09 and 5.10; and Generally Accepted Accounting Practices.

Internal Control of Court-Collected Funds, by Robert W. Tobin, National Center for State Courts. III. Cash Control Procedures, J. Treatment of Aberrational Transactions--Unclaimed Funds, Non-Sufficient Funds (NSF), and Uncashed and Undistributed Checks.

AOC General Counsel Memo, Returned Checks, October 6, 2003. (Available on the web from the Justice Court Bulletin Board at: http://www.utcourts.gov/msg_bds/justiceboards/)

Basic Principles

- Check payments returned due to insufficient funds (NSF) are accounted for at the court level, both in the individual case docket and in the court accounting records. (See **AOC General Counsel Memo**, Returned Checks, October 6, 2003.) The system is programmed to reverse the payment in the reported revenue totals and in the individual case docket.
- Per UCA § 7-15-1, a \$20 service charge may be assessed when a check is returned. An additional \$20 for collection costs may be assessed if the payer does not pay within 15 calendar days from the date the returned check notice is mailed.
- For separation of duties, two people should be assigned to the duties for processing returned checks.
 - One person performs the custody of assets role. This is usually a cashier or deposit clerk, who already has these duties. This clerk retains custody of the NSF check and receipts the subsequent repayment when it comes in. The returned check is stored in the clerk's locking cash box or other secure device, to which only that clerk has access.²

Upon repayment, the clerk returns the NSF check to the payer, or shreds it, per local policy. The original NSF check is not retained with the case file or citation.
 - The second person performs the record keeping role and does not have access to cash/check payments. This person enters the payment adjustment or reversal in the computer system, posts the returned check fees in the case docket, and sends the returned check notice.

¹ This document is available on the web at: <http://www.utcourts.gov/courts/just/audit/procedures.asp>. The procedures have been compiled from various resources, including various state laws and judicial rules applicable to justice court, the Suggested Accounting Procedures for Justice Courts, and the monograph published by the National Center for State Courts, *Internal Control of Court-Collected Funds*, by Robert W. Tobin.

² Safeguarding procedures for the cash change box are described in the document "Safeguarding Procedures for the Court Change Fund, Cash Boxes, and Dual Control Key Box," which is also available on the web.)

This person also monitors receipt of the repayment, and requests direction from the court if the NSF check, plus costs, is not repaid.

- If these duties cannot be separated, independent review/monitoring procedures need to be performed to verify that returned checks are reversed properly in the court records, and that the subsequent repayment is receipted and deposited properly. The review procedures need to be performed by a person who does not have access to cash and check receipts.

If such a person is not available, it is possible to have clerks perform review procedures over each other's transactions, provided there are controls in place to ensure that each clerk's transactions are distinguishable and all transactions are subject to review.

Procedures

1. Upon receipt of an NSF check, the local government forwards the check to the person at the court that performs the "custody of assets" role detailed below
2. Cashier or deposit clerk performing the custody of assets role:
 - Photocopy the front and back of the NSF check and forward the copy to the clerk that performs the recordkeeping role described below.
 - Maintain a holding file for all NSF checks outstanding while the court pursues collection efforts. This file must be maintained under lock and key, where only that person has access.
 - Upon repayment of the original amount, plus the assessed charges, return the original check to the payer or destroy it, per local policy. The original check should not be filed with the citation or in the case file.
3. Clerk performing the recordkeeping role:

- Post the payment adjustment for the NSF check. (For courts using the Caselle case management system, the payment adjustment needs to be posted through the *Cash Receipting* module. If this clerk does not have access to the *Cash Receipting* module for separation of duties, the cashier can post this transaction.)

The adjustment reverses the fine and surcharge allocation for the original check payment in the daily accounting records. Note that on the day the NSF adjustment is posted, the monies deposited, plus the NSF adjustment amount will equal the totals per the daily accounting records.

- Place the NSF check copy with the daily accounting records on the day the check is reversed/canceled as support for the reversal.
- Assess the \$20 service charge in the docket.
- Send out notice of the NSF to the payer. The notice should cite UCA § 7-15-1, advise that a \$20 service charge has been assessed, and collection costs of \$20 may also be assessed per the statute if the payer does not pay within 15 days. (A general NSF notice for justice courts is available at:
<http://www.utcourts.gov/courts/just/audit/forms.asp>)

- Monitor receipt of the repayment. If the payer does not pay within 15 days assessed the additional \$20 collection costs. Refer the matter to the court to determine if an order to show cause or other action is appropriate.